

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	
	:	
v.	:	CRIMINAL ACTION NO. 17-387-1
	:	CIVIL ACTION NO. 18-1791
JOHN RAYMOND MELENDEZ	:	

ORDER

AND NOW, this 28th day of July, 2022, after considering the amended motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody filed by the movant, John Raymond Melendez (“Melendez”) (Doc. No. 72), and the government’s motion to dismiss the amended motion (Doc. No. 73); and after an evidentiary hearing on July 14, 2021, at the conclusion of which the court allowed the parties to file supplemental briefing; and no party having filed any supplemental briefing; and for the reasons set forth in the separately filed memorandum opinion, it is hereby **ORDERED** as follows:

1. The government’s motion to dismiss the defendant’s amended motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody (Doc. No. 73) is **DENIED**;

2. Melendez’s amended motion under 28 U.S.C. § 2255 to vacate, set aside, or correct sentence by a person in federal custody (Doc. No. 72) is **GRANTED IN PART** and **DENIED IN PART** as follows:

a. The amended motion, insofar as Melendez argues ineffective assistance of counsel due to plea counsel’s failure to file a direct appeal, is **GRANTED**; and

b. With respect to the remainder of Melendez’s claims, the amended motion is **DENIED WITHOUT PREJUDICE** to Melendez filing a new section 2255 motion after

exhausting his rights on direct appeal;

3. Melendez's judgment of conviction (Doc. No. 28) is **REINSTATED**;

4. Attorney Patterson is **DIRECTED** to file an appeal on behalf of Melendez within 14 days of this order;

5. The clerk of court shall **REMOVE** Civil Action No. 18-1791 from civil suspense and **RETURN** it to the undersigned's active docket; and

6. The clerk of court is directed to **CLOSE** Civil Action No. 18-1791.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.